

**REMARKS**

Applicant submits this Amendment in reply to the Office Action dated March 17, 2004. As an initial matter, Applicant points out that claims 11-13 and 21 were canceled in the Amendment filed on February 18, 2004, yet those claims were indicated in the Office Action as pending and withdrawn.

By this Amendment, Applicant amends claims 1, 3, and 24 to further define the claimed invention. Support for the amendments to claims 1, 3, and 24 can be found at least in Figs. 4A-4E and page 16, line 23 through page 17, line 9 of the originally filed specification. No new matter has been introduced.

Before entry of this Amendment, claims 1-10, 14-20, and 22-29 were pending in this application, with claims 4-6, 9, 10, 14-20, and 26-29 having been withdrawn from consideration. After entry of this Amendment, claims 1-10, 14-20, and 22-29 are still pending in this application, with claims 4-6, 9, 10, 14-20, and 26-29 still having been withdrawn from consideration.

On pages 2-4 of the Office Action, claims 1-3, 7, 8, 24, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,409,019 to Wilk. Applicant respectfully traverses this rejection.

As-amended independent claim 1 recites a method including, among other aspects, "forming a blood flow path from a heart chamber directly to the first coronary vessel via a preexisting natural septal opening extending into the heart wall between the heart chamber and the first coronary vessel." As-amended independent claim 24 recites a method including, among other aspects, guiding a catheter device through an interstitial passageway, "wherein the interstitial passageway includes a preexisting

natural septal opening extending into the heart wall between the heart chamber and the coronary vessel." Thus, each claim recites "a preexisting natural septal opening," i.e., a naturally occurring opening in the heart wall that existed prior to performing the method.

Wilk does not disclose at least these aspects of the respective claimed inventions individually or in combination with the other aspects of the respective claimed inventions. Instead, Wilk discloses passages in the heart wall created completely by a surgical drill, needles, balloons, and dilating catheters. (See Figs. 3A-3E, 5A-5C, and 6A-6C of Wilk). Wilk does not disclose a "preexisting natural septal opening" as recited in each of claims 1 and 24. For at least this reason, Applicant respectfully requests withdrawal of the Section 102(b) rejection based on Wilk.

On page 5 of the Office Action, claims 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wilk. Claims 22 and 23 are patentable at least by virtue of their direct or indirect dependency from allowable independent claim 24. For at least this reason, Applicant respectfully requests withdrawal of the Section 103(a) rejection.

Should independent claims 1 and 24 be found allowable, Applicant respectfully requests rejoinder and allowance of dependent claims 4-6, 9, 10, 14-20, and 26-29, as set forth in M.P.E.P. § 821.04.

Applicant further submits that claims 2-10, 14-20, 22-23, and 25-29 depend either directly or indirectly from one of independent claims 1 and 24, and are therefore allowable for at least the same reasons that their respective independent claims are allowable. In addition, at least some of the dependent claims recite unique

combinations that are neither taught nor suggested by the cited references and therefore at least some also are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art reference cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.


Please grant any extensions of time required to enter this Amendment and charge any additional required fees not otherwise accounted for to our Deposit Account No. 06-0916.

Respectfully submitted,

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By: \_\_\_\_\_

  
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